



CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, NOVEMBER 6, 2006

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A meeting of the Mayor and City Council was called to order at 7:30 p.m., Council Vice President Schlichting presiding. Mayor Katz (arrived at 8:13 p.m. to preside). Council Members present: Alster, Edens, Marraffa, and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Police Captain Bonvillain, Planning and Code Administration Director Ossont, Director of Public Works, Parks Maintenance and Engineering (PWPME) Arnoult, Capital Projects/Facilities Director Geiling, Planners Marsh and Robinson, Community Development Director Kauffmann, Grants Writer Boyle, City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for the joint public hearing: Bauer, Kaufman, Levy and Winborne.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Grant Norwood, Stuart Nystrom, Alex Bauer, Zack Sickman, and David Pim from Boy Scout Troop 1097, Scoutmaster Paul Schimke.

**II. INVOCATION**

The invocation was led by Dale Shore, Baha'i Faith.

**III. APPROVAL OF MINUTES**

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held October 3, 2006, be approved.

Vote: 5-0

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held October 9, 2006, be approved.

Vote: 4-0-1 (Abstained: Edens)

**IV. CONSENT ITEM**

**Resolution to Enter Into a Contract for the Senior Center Roof Replacement**

This resolution authorizes the City Manager to execute a contract for construction services for the Gaithersburg Upcounty Senior Center Roof Replacement Project to J and K Contracting, Inc., 8521 Chestnut Avenue, Bowie, Maryland 20715, in the estimated amount of Sixty-Two Thousand Dollars (\$62,000) plus a ten percent construction contingency of Six Thousand Two Hundred Dollars (\$6,200) for a total of Sixty-Eight Thousand Two Hundred Dollars (\$68,200); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE SENIOR CENTER ROOF REPLACEMENT (Resolution No. R-103-06), be approved.

Vote: 5-0

## V. APPOINTMENTS

### Resolution Confirming Appointments and Reappointments by the Mayor

This resolution confirms the following: **Art in Public Places Committee**, Rita Lewi (appointment), 10804 Coopersmith Court, North Potomac 20878, two-year term; **Commission on Landlord/Tenant Affairs**, Jennifer Allen (appointment – Tenant), 19 Earth Star Place, Gaithersburg, Maryland 20878 and William Snyder (reappointment – Public-At-Large), 114 Fox Trail Terrace, Gaithersburg, Maryland 20878, three-year terms; **Education Committee**, Laurene Thomas (appointment), 451 Hungerford Drive, Suite 508, Rockville, Maryland 20850, two-year term; **Ethics Commission**, Sally Marchessault (appointment), 432 Inspiration Lane, Gaithersburg, Maryland 20878, three-year term; **Gaithersburg Senior Council**, Hari Butaney (appointment), 300 High Gables Drive, #107, Gaithersburg, Maryland 20878 and Maria Patriciu, 18700 Walkers Choice Road, Apt #526, Montgomery Village, Maryland 20886, two-year terms; **Greater Historic District Committee**, Kim Brown (reappointment), 19 Maryland Avenue, Gaithersburg, Maryland 20877, two-year terms; **Multicultural Affairs Committee**, Washington Nsangou (appointment), 903 North Frederick Avenue, Gaithersburg, Maryland 20879, two-year term; and the **Police Chief's Advisory Council**, Jack Montrose (appointment), 12 Almaden Place, Gaithersburg, Maryland 20878, two-year term.

Motion was made by Council Member Edens, seconded by, Council Member Alster, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS TO THE ART IN PUBLIC PLACES COMMITTEE, COMMISSION ON LANDLORD/TENANT AFFAIRS, EDUCATION COMMITTEE, ETHICS COMMISSION, GAITHERSBURG SENIOR COUNCIL, GREATER HISTORIC DISTRICT COMMITTEE, MULTICULTURAL AFFAIRS COMMITTEE, AND POLICE CHIEF'S ADVISORY COUNCIL (Resolution No. R-104-06), be approved.

Vote: 5-0

## VI. PRESENTATIONS

### 1. Certificate of Recognition

Human Services Director Carr and Linda Plummer joined Council Vice President Schlichting at the podium to accept a Certificate of Recognition on behalf of Jim Savitz and The Reunion Band for their valuable contribution to the community over the last 20 years. The band is made up of professionals from the metropolitan area. Over the last 12 years, the band has provided entertainment to local fundraisers in-kind. The value of their contribution is an estimated \$250,000.

### 2. City Manager's Day Laborer Report

Read the following statement:

"We are all aware that the proposed lease for an employment center site at the Festival at Muddy Branch Shopping Center fell through. We appreciate the efforts made by all of the parties but, in the end, the center's owners and Montgomery County simply could not agree to terms that would have adequately addressed the concerns of the tenants at the shopping center.

City staff and I met with County representatives last week to provide an update and try to determine next steps. The discussion touched upon a wide range of issues but focused on the ongoing site selection process. To that end, the County has requested a formal communication of our intent going forward.

After consultation with the Mayor and Council tonight I intend to prepare a letter to the County that makes three specific points -

1. After an exhaustive search, it does not appear that a site that both meets the spirit of the Task Force criteria and that is acceptable to a property owner will be found within the City. We therefore believe the County must begin immediately to search for alternative locations for an employment center
2. We strongly recommend that the site be in a heavy commercial or industrial area, already frequented by contractors, and where residential neighborhood disruptions are minimized. Areas such as Oakmont Avenue or the Airpark may be able to serve as more regional locations that could serve workers from Rockville and the up-County as well
3. We reiterate the City's position that the gathering of workers at 17 North Frederick Avenue must come to an end as quickly as possible, and we are exploring the legal and/or zoning actions available to us to achieve that goal.

If the goal is still to find a location for an employment center that will serve day laborers in the Gaithersburg area, the County will need to be flexible in its approach. For example, in facilitating use of a site in an industrial area, the newly-formed pastoral coalition can work with County staff on logistical matters such as transportation. We encourage these parties to work together.

I mentioned legal actions a moment ago. One of those actions would be an anti-solicitation ordinance. Tonight I am recommending that the Mayor and Council introduce what staff believes is an enforceable ordinance that will make "unofficial" gatherings spots such as 17 North Frederick Avenue unusable. We will be discussing it in detail later in the meeting and have tentatively scheduled the public hearing for Monday, November 20<sup>th</sup>.

Additionally, the pastoral coalition has proposed a temporary site employment center site across from St Martin's church. We do not feel that this is an appropriate location, however. It does not meet the Task Force criteria and simply shifts the problem into a different area. It is very likely that such a site will have an impact on the surrounding residential areas, and both Gaithersburg High School and St Martin's parochial school. Certainly, the coalition can choose to go through the planning and zoning process to determine if they can get approval to use this location but I think the conclusion will be the same; that this is not a site that is compatible with the surrounding neighborhood."

The City Council agreed with the staff's point stated above and thanked staff and the Task Force for the tremendous effort put forth and thanked the public for their input. City Council members directed staff to prepare a letter asking the County to step up, address the public safety issues, alleviate the situation at 17 North Frederick Avenue and find an industrial site for such a center.

**VII. PUBLIC APPEARANCES**

1. *Robert Drzyzgula, 16 Walker Avenue*, expressed concern with the increase in crime and gang activity in Gaithersburg. He asked the City to address the public safety issues and begin setting aside funds to improve the City's Police force.
2. *Chuck Floyd, County Executive candidate*, expressed opposition to a day laborer center in Gaithersburg and the use of taxpayer dollars. He stated that there are job centers throughout the county that can be used by those living in the county legally.
3. *Clark Day, 26 Walker Avenue*, thanked the Gaithersburg Department of Public Works for the curb and sidewalk repairs made recently on Walker Avenue.
4. *Demos Chrissos, Tschiffely Square Road*, asked that 17 North Frederick Avenue be closed down as a gathering location for an employment center not use taxpayer's dollars any longer to pursue a day laborer site in Gaithersburg. He asked elected officials to stand up and put an end to the illegal activity.
5. *Susan Payne, Gaithersburg*, thanked the owners of Muddy Branch Shopping Center for saying no to an employment center at their location. She offered avenues of seeking employment for those here legally. She expressed concern with affordable housing and illegal residents occupying rental housing in Gaithersburg.
6. *Cathy Drzyzgula, 16 Walker Avenue*, thanked the City Council and staff for their support to the Historic District and the citizens of Gaithersburg for considering other options for an employment center and for giving their input to try and work out a community matter.
7. *Lucia de Costa Lima, Day Laborer Task Force Member*, expressed disappointment for not being successful in not finding a site and expressed support for a temporary employment center.

**VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS****Council Member Alster**

1. Referred to a Washington Post article on motorized scooters/cycles and making legislation applicable in the City. City Manager Humpton stated the City does have current laws for such vehicles on City streets. Assistant City Manager Felton stated that the county recently passed legislation that would prohibit operating such vehicles on private property such as shopping centers, schools and parks. Staff will investigate further and bring recommendations back to the City Council.
2. Expressed concern with the overcrowded housing mentioned earlier. He asked staff to investigate and address the issue. City Manager Humpton stated an internal task force has been formed to address the issues and possible enforcement.

**Council Member Marraffa**

1. Encouraged citizens to join the City for the Veterans Day Ceremony on Saturday, November 11, 2006 at 11 a.m. and to vote in the elections on Tuesday, November 7, 2006.
2. Echoed the concern of overcrowded rental units and the rise of gang activity in Gaithersburg. He questioned banning rental units to illegal immigrants. City Manager Humpton stated staff will prepare a memorandum to address overcrowding in homes within 30 days.

**Council Member Sesma**

1. Echoed concern with the public safety issues mentioned above.
2. Addressed comments heard earlier regarding Gaithersburg becoming a destination for all kinds of people. He stated the City is a destination to live because it promotes the quality of life that many people find attractive. He asked that citizens face issues together and not blame one type of resident or group of people.
3. Announced that leaf collection will continue through the last week of December. He informed the public that leaves are picked up on the same day as your recycling and offered the following tips: rake leaves to curb; remove any limbs, rocks, or other heavy objects from leaf piles; don't use plastic bags; don't allow children to play in leaves; don't park over a leaf pile because vehicle's exhaust may start a fire; and avoid putting out leaves when snow is forecasted.

**Council Vice President Schlichting**

Announced vacancies on various City Committees, Commissions, and Boards and asked citizens to submit letters of interest to serve.

City Council Member Marraffa added that a new member is needed for the Arts and Monuments Funding Corporation to have a forum and conduct meetings.

**Council Member Edens**

Asked staff to provide information and recommendations for the many issues raised by the City Council and citizens as soon as possible.

**Mayor Katz**

1. Reported that staff had contacted candidates interested in the alternate positions on both the Planning Commission and Board of Appeals. He stated that five out of the seven are still interested in serving on the Planning Commission and three out of the five are still interested in serving on the Board of Appeals. The City Council concurred that the Mayor move forward with his nominations.
2. Announced the following upcoming Mayor and City Council meetings:
  - Work session on Monday, November 13, 2006, to review the draft affordable housing regulations. The regulations are being developed to implement the affordable housing ordinance, if adopted. He stated that he will not be in attendance due to a potential conflict.
  - Regular meeting of the Mayor and City Council will be held on Monday, November 20, 2006.
  - No work session will be conducted on Monday, November 27, 2006.

**IX. FROM THE CITY MANAGER****• Guidance on Establishing an Ad Hoc Election Participation Advisory Committee**

Mayor and City Council accepted the charges of the proposed committee and directed staff to proceed and prepare a resolution for action.

- **Gang Activity Situation**

Stated that Mayor Katz and Police Chief Viverette served on the County's Gang Task Force which provide valuable information and resources to the City. Staff has developed a small committee to implement prevention, intervention and suppression measures to combat gang activity. The committee decided to meet regularly and stay in communication with County authorities and area schools.

**X. JOINT PUBLIC HEARING**

**SDP-06-005, Applicant: Crown Farm Village, LLC, Requests Approval for the Schematic Development Plan (SDP), Per Annexation X-182, Known as the Crown Property (Parcels 445, 600, 905, 883, & 820) in Gaithersburg, Maryland. The Proposed Plan Includes a Mix of Uses, Including 2250 Residential Units and 320,000 Square Feet of Future Commercial Uses on Approximately 180 Acres of Land. The Initial SDP Application Primarily Concerns Neighborhoods 2 and 3 With the Associated Infrastructure. The Subject Property is Bordered by Fields Road, Sam Eig Highway, and Omega Drive**

Planner Robinson introduced the joint public hearing stating that it was advertised in the *Gaithersburg Gazette* on October 18 and 25, 2006.

Planning and Code Administration Director Ossont provided background as it relates to annexation X-182, the agreement and sketch plan. He stated that the development is limited to 2,250 residential units and 320,000 square feet of commercial retail development. He further stated that Neighborhood 2 is a total of 310 to 325 dwelling units, made up of single family attached, single family detached units, and two-over-two stacked condos. Neighborhood 3 is limited to a total of 288 units made up of single family attached, single family detached and also two-over-two condos. Mr. Ossont stated that the development phasing has been allocated to only 225 building permits per year for the residential development in Neighborhood 1, 2 and 3 during each of the first six years or until it is built out. The applicant is to provide 12-1/2 percent of Moderately Priced Dwelling Units (MPDUs) and Work Force Housing Units (WFHUs) are required in Neighborhoods 2 and 3, four percent single family attached units and four percent of the two-over-two units. Crown Village, LLC will provide the dedication of the right-of-way and one transit stop for the Corridor Cities Transitway. In addition, Crown Village is also obligated to provide 250 parking spaces within Neighborhood 5 and dedicate and construct all the interior roadways within the boundaries of the subject property. Mr. Ossont went on to state that the community recreation building in Neighborhood 3 will comply with the Leadership in Energy and Environmental Design Standards. The applicant is required to donate a high school site on 32.1 acres and in addition, a neighborhood public park will be dedicated to the City on approximately five acres. He referred to inquiries received from the public on the existing historic main farmhouse located at 9800 Fields Road and other structures and stated that the applicant is responsible for preserving and improving the structures. He went on to state that a shuttle bus program is a part of the "Traffic Mitigation Plan." He further stated that a contribution of \$2,000,000 to the Montgomery County Agricultural Land Preservation Easement Fund will be made by the applicant as well as a contribution to the City in the total amount of \$5,000,000 for offsite regional recreation improvements and amenities to be used at Gaithersburg's discretion.

*Greg May, KB Homes*, stated that the planning layout of the project has been a collaborative effort between the City and the development team.

*Kiran Mathema, Architect, Ehrenkrantz, Eckstut & Kuhn Architects*, spoke on the design parameters and architecture for the development. He stated that the public involvement process has been the cornerstone for the design of the Crown property. He stated that the design team wanted to link the existing developments through the pedestrian friendly streets and open park features on the site. He stated the team also wanted to provide a variety of housing types, an integrated community that linked the surrounding neighborhoods, transit oriented, and mix use neighborhoods throughout the property. Later, he discussed in more detail, the architecture and various housing types.

*Gary Unterberg, Rodgers Consulting*, reviewed the overall network of the site, the Schematic Development Plan (SDP) and the neighborhood infrastructure associated with the SDP. He stated that the applicant will seek in the future an environmental code waiver (sewer connections and stormwater management outfall) and a parking waiver request (Neighborhood 5). He further stated that meetings were held with the utility companies to discuss a utility easement. Mr. Unterberg stated that there is a traffic calming plan as part of the SDP which he reviewed for the Mayor and City Council and Planning Commission. He further reviewed the housing types, greenspace, MPDUs and WFHUs, high school site and City park dedication in Neighborhoods 2 and 3. Mayor Katz asked the applicant to provide a breakdown of the total number of parking for Neighborhoods 2 and 3. Mr. Unterberg later reviewed the greenspace and homeowners association amenities for the development in detail.

*Wes Guckertt, The Traffic Group*, briefly showed where the traffic studies and road improvements will be made on the development. He stated that concept plans have been completed for all the improvements and coordinated with City staff, State Highway Administration and Montgomery County Public Works and Transportation.

Planning Commission Chair Bauer questioned the transformation of Fields Road. Mr. Unterberg stated that the team is working with City Staff on the phasing agreement for the roads in the SDP. In response to a question, he stated that the HOA will own and maintain the stream valleys and reviewed the greenspace ownership and maintenance by the City and the HOA.

Speakers from the public:

1. *Carol Jordan, 9701 Fields Road*, expressed concern with exiting and making a left turn from the Washingtonian Apartments driveway.
2. *Rosalind MacLennan, HOA liaison for the Courtyard at the RIO*, stated overall, the residents are concern with the location and pedestrian user traffic of the proposed transit center.
3. *Richard Arkin, 121 Selby Street*, speaking on behalf of the Historic Preservation Advisory Committee (HPAC). He stated that HPAC toured the site in June 2006 and that the Crown Farm structures and property is a valuable resource and the agricultural heritage should be evaluated for historic preservation and reuse. Several members of HPAC believe that outlining structures should also be evaluated. Expressed concern with the annexation and property lines going through buildings and expressed concern with the stormwater management and public utility easements. Mr. Arkin personally believes that ownership of the main and log house should remain in the possession of the City. He submitted testimony for further review.

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, to hold the Planning Commission record on SDP-06-005, open indefinitely.

Vote: 4-0

Motion was made by Council Member Marraffa, seconded by Council Member Schlichting, to hold the City Council record on SDP-06-005, open indefinitely.

Vote: 5-0

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RECESSED THE MAYOR AND COUNCIL MEETING AT 9:28 P.M.  
FOR A HISTORIC DISTRICT COMMISSION MEETING AND RECONVENED AT 9:29 P.M.

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**XI. ORDINANCES, RESOLUTIONS, AND REGULATIONS**

**1. Resolution for the Dedication of Land, Design, Development and Construction of Watkins Mill Road Extended**

Assistant City Manager Felton stated that on July 17, 2006, the Mayor and City Council approved a resolution authorizing the City Manager to execute a Memorandum of Agreement with Montgomery County and BP Realty, LLC on Watkins Mill Road Extended. The City, Montgomery County Department of Public Works and Transportation, and BP Realty Investments, LLC have reached general agreement on a road participation agreement for the full build out of Watkins Mill Road Extended. He stated that in conjunction with land use approvals for Monument Realty, Casey West, and Casey East, developers are obligated to dedicate all the necessary right-of-way for the construction of Watkins Mill Road Extended. As part of the Casey West approval, BP Realty Investments, LLC was required to construct four lanes of Watkins Mill Road Extended from MD 117 to I 270; however, subsequent to the approval it was determined that Watkins Mill Road Extended should be six lanes to handle anticipated traffic volumes. He further stated that pursuant to the agreement, Montgomery County impact taxes collected from development at Casey East, Casey West, the Monument Office Park, and McGowan Tract may be dedicated to the Watkins Mill Road project. In closing, he stated that the City is expected to contribute to the cost of the County's participation, 50 percent of the total permit fees paid by the developer for the four lane bridge over the CSX right-of-way and for both segments of Watkins Mill Road Extended. The agreement will also provide for the complete build out of the road to be completed in two years. It is anticipated that the Montgomery County Council will approve this agreement during their November 28, 2006 meeting.

Motion was made by Council Member Schlichting, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ROAD PARTICIPATION AGREEMENT WITH MONTGOMERY COUNTY, AND BP REALTY INVESTMENTS, LLC FOR THE DEDICATION OF LAND, DESIGN, DEVELOPMENT AND CONSTRUCTION OF WATKINS MILL ROAD EXTENDED (Resolution No. R-105-06), be approved.

Vote: 5-0

**2. Resolution Awarding Matching Grant to Village Overlook IIA (Hyde Park)**

This resolution authorized the City Manager to award a matching grant to Village Overlook IIA (Hyde Park) for landscaping, upon determining that the project was completed as proposed, in the total amount of Three Thousand Three Hundred Sixty Dollars (\$3,360); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDING MATCHING GRANT TO VILLAGE OVERLOOK IIA (HYDE PARK) (Resolution No. R-106-06), be approved.

Vote: 5-0



**3. Resolution Supporting the Rebuilding Together \*Montgomery County Community Investment Tax Credit Program**

Human Services Director Carr stated that Rebuilding Together \*Montgomery County requested a resolution from the City in support of its application to the Maryland State Department of Housing and Community Development's Community Investment Tax Credit (CITC) Program. Rebuilding Together works in partnership with the community to address the needs of low-income elderly and disabled homeowners within the priority funding areas of Montgomery County. She made it clear that the City is ineligible for this program. She further clarified that the program does not compete with any City proposals to the State.

Motion was made by Council Member Sesma, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL SUPPORTING THE REBUILDING TOGETHER \*MONTGOMERY COUNTY COMMUNITY INVESTMENT TAX CREDIT PROGRAM THROUGH THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (Resolution No. R-107-06), be approved.

Vote: 5-0

**4. Resolution for Architectural and Engineering Services for the Design of the Gaithersburg Aquatic/Recreation Center Located at the Corner of Route 28 and Edison Park Drive**

This resolution authorizes the City Manager to negotiate and execute a contract for the above services to Sorg and Associates, 2000 South Street, NW, Washington, DC 20009, in the estimated amount of One Million One Hundred Twenty-Seven Thousand and Ten Dollars (\$1,127,010); said funds to be expended from the Capital Improvements Budget. Capital Projects/Facilities Director Geiling stated plans to build a new aquatic and recreation facility emerged in the City Master Plan in 1999. The concept was developed by a Committee appointed by the Mayor and City Council in 2000. The City Council adopted the concept for a new facility in May 2001. In 2004, the City selected a site and hired the Hughes Group Architects to perform a feasibility study to determine whether the proposed program could be accommodated in a new building on the selected site. Funding was approved during the City's FY 2007 CIP Budget Process.

Motion was made by Council Member Schlichting, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR THE DESIGN OF THE GAITHERSBURG AQUATIC/RECREATION CENTER LOCATED AT THE CORNER OF ROUTE 28 AND EDISON PARK DRIVE (Resolution No. R-108-06), be approved.

Vote: 5-0

**5. Introduction of an Ordinance to Repeal and Reenact With Amendments Section 15-4 of the City Code, Entitled "Loitering," so as to Clarify Existing Language With Regard to Prohibited Conduct, and Section 15-9, Entitled "Solicitation In Roadways," so as to Expand the Applicability of the City's Prohibition on Solicitation Specific to this Chapter**

City Attorney Borten introduced the above proposed ordinance. She stated that the ordinance expands upon the current ordinance found in Chapter 15, Section 15-9 of the City Code. Based on direction received from the City Council in October, staff has revised the ordinance and included a findings section to ensure traffic and pedestrian safety. In response to a comment from the public that no penalty section was included in the ordinance, she stated that Chapter 15, Section 15-19 and Section 1-7 does has its own language in regards to penalties for those violating the City ordinance and staff believes that additional language is not required. Staff is anticipating a public

hearing on November 20, 2006. Concern was expressed that Section 15-9(d) prohibited conduct, that the language not be too vague. It was also expressed that traditional community fundraising activities not be affected by the proposed language.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that the above Ordinance, be introduced.

Vote: 5-0

Mayor Katz recused himself from the meeting for the next two agenda items due to a potential conflict. Council Vice President Schlichting presided.

## **XII. POLICY DISCUSSION AND STAFF GUIDANCE**

### **1. T-379 - An Ordinance to Amend Chapter 24 of the City Code Entitled "Zoning" So As to Create New Article XVI Entitled "Affordable Housing Requirements" So As To Require the Inclusion Of Moderately Priced Dwelling Units And Work Force Housing Units In New Residential Developments**

Assistant City Manager Felton stated that the Mayor and City Council held a series of work sessions and discussions on affordable housing issues since November 2005. During the August 14, 2006 work session, the Mayor and City Council chose to move forward with considering an ordinance to establish the base developer requirements, and then adopt regulations pursuant to Section 2-10 of the City Code to fully implement the City's housing policy. A public hearing was held on October 3, 2006 and the record closed as of November 2, 2006. He stated that Moderately Priced Dwelling Units (MPDUs) and Workforce Housing Units (WHFUs) were discussed extensively during the work session process. Both alternatives of the proposed ordinance would require developers that construct 20 or more for sale dwelling units to construct 7.5 percent MPDUs and 7.5 percent WFHUs in new developments and redevelopments. Both alternatives of the proposed ordinance would require that developers that construct 20 or more rental units to construct and lease 15 percent of the units as MPDUs for a period of 30 years. Staff presented the two alternative ordinances to the Mayor and City Council at the public hearing. The only practical difference in the two alternative ordinances is how affordable housing in Olde Towne is addressed. Mr. Felton stated that alternative #1 would treat developments in Olde Towne in the same manner as the rest of the City. Alternative #2 exempts developments in Olde Towne from constructing MPDUs and WFHUs but would require developers to pay a fee in lieu of constructing such units to an affordable housing fund that would be used by the City to provide additional affordable housing opportunities throughout the City. He stated that the Planning Commission provided a recommendation for Alternative #2 to the Mayor and City Council on November 1, 2006 with the following modifications: 1) Provide a definition for "affordable" within Section 24-249 of the Article. The definition of "affordable" may simply state "as defined in the Administrative Regulations" and 2) Insert the word "minimum" prior to percentage references in Sections 24-251 and 24-252. In regards to recommendation #1, staff does not believe that it is necessary and #2, staff has concerns that it would be too vague as to establish a requirement with the word "minimum." If an ordinance is adopted, the City will schedule a work session on Monday, November 13, 2006 to discuss the City's draft housing regulations.

Assistant City Manager Felton responded to several questions and stated that action can be taken by the City Council on an ordinance as long as the City does not go beyond the 15 percent for rental MPDUs, and further stated that the "fee in lieu" amount will be addressed in the housing regulations. The City Council concurred with the Planning Commission on recommendation #1. Following discussion, several City Council agreed to go with the 15 percent rental MPDUs. Council Member Edens and Alster expressed concern with the numbers generated for the 15 percent requirement for MPDUs and the average rents for future redevelopment and affordable housing. Support was expressed for promoting the revitalization of Olde Towne, Alternative #2 and the "fee in lieu" for developers.

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that T-379 (Ordinance No. O-12-06 – Alternative #2), be adopted as amended.

Vote: 5-0

**2. An Ordinance Declaring a One Hundred and Twenty (120) Day Deferral on Redevelopment of Multi-Family Dwellings in the R-18, R-20, R-H, CD, CBD, RPT, and MXD Zones**

City Manager Humpton stated that a public hearing was held September 18, 2006 on the proposed ordinance. The original purpose of the deferral was to give the City Council an opportunity to consider additional tenant displacement benefits, adopt an affordable housing ordinance and accompanying regulations, and review the existing densities in residential zones prior to any residential redevelopment. He further stated that the ordinance providing for enhanced tenant displacement assistance was adopted on August 21, 2006. On October 23, 2006 the Mayor and City Council and Planning Commission held a joint work session to discuss permitted densities in residential zones. The consensus appeared to be that the existing restrictions were generally reasonable; however, the Mayor and City Council asked the Planning Commission to provide a recommendation as to whether any changes to the TND option were appropriate.

During the course of the public hearing, the City Council requested the current status of various rental properties that could be subject to redevelopment. Staff has contacted the property owners and developers and reported the following:

**West Deer Park Apartments (198 units)**—RST Development has indicated they can not move forward with this redevelopment due to adjustments in the housing market and high costs of materials.

**Executive Garden Apartments (85 units)**—Property was recently purchased, and developer has showed staff a concept plan for redevelopment. Concept plan shows 78 townhouse units. Staff has told the developer that we believe the plan is too dense, lacking green space, and is severely under parked. Developer maintains that this project will only be economically viable if he can build 78 units. To date, formal application has not been submitted.

**Water Street (52 units)**—The same developer that purchased Executive Gardens has 52 units on Water Street under contract. While he has not yet produced a concept plan, he recently indicated that he would not move forward with purchasing the properties unless the City was supportive of the density he was proposing for Executive Gardens.

**Stratford Place Apartments (350 units)**—Property owner has requested that the Mayor and City Council approve a text amendment that would allow a waiver for four stories in the residential portion of the CD zone. This text amendment is scheduled for policy discussion on December 4, 2006. If the text amendment is approved, the property owner has indicated he will be filing a request for rezoning and a schematic development plan requesting approval of a mixed-use residential development including townhouses, apartments, and two-over-two condominiums.

**East Diamond Avenue consolidation (73 units)**—Staff is still working with a developer and the property owners of three small apartment complexes who would like to redevelop this area with fairly high density apartments. During a work session on May 30, 2006, the City Council indicated general support for the project but expressed concern about the scale and density of the project. To date, no application has been submitted.

**Frederick Avenue consolidation (75 units)**—Several months ago, staff met with a group of developers that expressed an interest in redeveloping several blocks of North Frederick Avenue that included several commercial buildings and 75 apartments. To the best of staff's knowledge, the developer does not have the apartments under contract and has not prepared a plan.

He noted for the City Council that paragraph C of the deferral ordinance states "The Mayor and City Council may by Resolution terminate the deferral prior to the expiration of the original one hundred and twenty (120) day period or prior to the expiration of any extension period upon a finding that the purposes to be accomplished by the deferral have been achieved or that it is in the public interest to so terminate." He stated the City Council record closed on October 18, 2006.

Several City Council members thought that a moratorium should be an emergency measure and because of current market conditions, a moratorium at this time is not an emergency. Other members felt that the City Council can move forward and address housing issues without a moratorium following the adoption of the affordable housing ordinance and the draft housing regulations. Following discussions, the City Council decided not to take action on a moratorium.

Mayor Katz returned to preside over the remainder of the meeting.

**XIII. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF**

**Staff guidance on the following:**

- **Proposed Legislative Priorities for the 2007 General Assembly Legislative Session.**

Staff recommended that the Mayor and City Council adopt the following as our initial legislative priorities for the 2007 General Assembly Legislative Session:

**Funding**

- 1) A bond bill for City Capital project(s).
- 2) Increased State Aid for Municipal Police Protection. Please note that this is a Maryland Municipal League (MML) priority.

**Legislation**

- 1) A local bill establishing that properties annexed into the City of Gaithersburg or City of Rockville since 1965 are not subject to the Metropolitan District Tax. Staff recommends that we work closely with the City of Rockville on this issue. (Please note that local bills need to be filed by November 13, 2006)
- 2) A statewide enabling bill that would let cities charge a 1% hotel tax earmarked for Public Safety. Staff suggests that the City try to get the ten largest Maryland cities to also pursue this legislation to gain statewide support.
- 3) A statewide enabling bill that would allow municipalities to charge development excise taxes on new construction. Please note that the City of Rockville has asked us to support this legislation and it appears that the Montgomery County Chapter of MML is also going to endorse this as a legislative priority.
- 4) Municipal Opt-Out Electrical Aggregation. Please note that this is a MML priority.

**Transportation**

- 1) Continue to support the Corridor Cities Transitway, and urge the Department of Transportation to break this project out of the 15-270 corridor study and create a new line item in the Consolidated Transportation Plan (CTP) for this project in either the FY08 or FY09 budget.
- 2) Additional engineering funding for the Watkins Mill Road Interchange. The draft CTP calls for \$800,000 in FY08, but both the County and the City would like to see a higher level of funding given that the County and the City have developed a funding mechanism which

will allow for construction of all six lanes of Watkins Mill Road Extended in the next two years.

- **Request for Resident Only Parking on Deer Park Court**

Assistant City Manager Felton stated that the residents of Deer Park Court are concerned about an ongoing problem with residents from adjoining communities parking on their court and have requested a parking restriction. In response to a similar problem on Sunnyside Court, the City recently restricted parking on Sunnyside Court pursuant to Section 14-A of the City Code. The Mayor and City Council directed staff to grant the request of the residents and post "Permit Parking Only" signs, and give each homeowner two parking permits.

- **Request for Resident Only Parking on a Portion of Longdraft Road in the Bennington Community**

Assistant City Manager Felton stated that as part of a proposed community reserved parking plan, five homes in the Bennington Community will not have adequate parking within the community. He further stated that the Bennington Community Association has formally requested that the City designate the eastern portion of Longdraft Road from Wade Court to Ramsdell Court as "Permit Parking Only" and provide parking permits to the five homes referenced above. The Mayor and City Council directed staff to grant the request.

- **Possible Financial Incentives for Bozzuto Housing Development in Olde Towne**

Assistant City Manager Tomasello stated that there has not been a material project started in Olde Towne in several years. He further stated that financial initiatives have been used in the past to move projects forward such as Park Station Apartments and 12 and 16 South Summit Avenue office buildings. Last year, the City sold property in the area of North Summit and Park Avenues to Bozzuto Homes to build a 45 unit housing development. The project today has only one to two units under contract. Staff is asking the Mayor and City Council to consider partnering with the developer to provide some limited financial incentives and possibly provide a matching fund to prospective homeowners with closing cost and down payment assistance. Staff believes it is important to assist and sustain momentum in Olde Towne. Construction on the Bozzuto project is now at a halt. Staff was directed to come back with a resolution to consideration that contains specific details on the incentives, fees and homeownership. Many City Council members expressed concern with setting a precedent for developers and other projects coming into Olde Towne.

#### **XIV. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:38 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant